

ENTERED

February 12, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

INTREPID SHIP MANAGEMENT, INC.,	§	
VESSEL MANAGEMENT SERVICES, INC.	§	
and CROWLEY MARITIME CORP.	§	
	§	
V.	§	CIVIL ACTION NO. G-12-243
	§	(Consolidated with G-12-cv-359)
OCEAN PROSPECTOR, her equipment,	§	
tackle, appurtenances, et., <i>in rem</i> , and	§	
PLANT RECOVERY COMPANY,	§	
<i>in personam</i>	§	

REPORT AND RECOMMENDATION

Before the Court is “Malin International Ship Repair & Drydock, Inc.’s Motion for Judgment on the Pleadings as to PRC Environmental’s Claims against Malin for Fraud and Fraudulent Inducement.”

For the reasons set out in its Report and Recommendation (Instrument no. 189) the Court found that PRC Environmental, Inc. (PRC) has never had any ownership interest in the Rig and therefore cannot assert any claim for property damage to it or for lost profits anticipated to flow from its conversion. These are the damages PRC is seeking to recover in its “hypothetical” fraud and fraudulent inducement claims. If the Report and Recommendation is adopted PRC will have no standing to pursue these claims, they will be dismissed and this motion will be rendered moot.

It is, therefore, the **RECOMMENDATION** of this Court that Malin’s Motion (Instrument no. 179) be **DENIED as moot**, without prejudice to being re-urged without refiling if the Report and Recommendation is rejected and the District Court finds that PRC has standing to further pursue its claims.

The Clerk **SHALL** send a copy of this Report and Recommendation to the Parties who **SHALL** have until **February 26, 2016**, to file objections pursuant to 28 U.S.C. §636(b)(1)(C). The Objections **SHALL** be electronically filed and/or mailed to the Clerk's Office at P.O. Drawer 2300, Galveston, Texas 77553. Failure to file written objections within the prescribed time **SHALL** bar any Party from attacking on appeal the factual findings and legal conclusions accepted by the District Judge, except upon grounds of plain error.

DONE at Galveston, Texas, this 12th day of February, 2016.



John R. Froeschner
United States Magistrate Judge